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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/412,122	10/05/1999	ALBERTO GUTIERREZ, JR.	RR2619	9247

7590 06/17/2003  
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EXAMINER

SMITH, SHEILA B

ART UNIT	PAPER NUMBER
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2681

DATE MAILED: 06/17/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

09/412,122

Applicant(s)

GUTIERREZ, JR. ET AL.

Examiner

Sheila B. Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10,15,30-38 and 43-60 is/are rejected.
- 7) ☒ Claim(s) 11-14,26-29 and 39-42 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-9,19,20,22-24,35-37,47-48,50-52 are rejected under 35 U.S.C. 102(e) as being anticipated by Black et al. (U.S. Patent Number 6,208,873).

***Regarding claims 1-3,5,19,20,47,48,*** Black et al. discloses essentially all the claimed invention as set fourth in the instant application, further Black et al. discloses a method and apparatus for transmitting reverse link power control signals based on the probability that the power control command is in error, in addition Black et al. discloses a common power control signal on a carrier wave and transmitted from a base station to a plurality of subscriber units, Black et al. discloses in column 3 lines 36-67 and column 4 lines 1-12. (which reads on a plurality of inhibit bits corresponding to a reverse link and indicating whether a dedicated burst mode has been scheduled for the reverse link common channel)

***Regarding claims 4, 7- 9, 22,-24, 35-37, 50-52,*** Black et al. discloses everything claimed, as applied above (see claim 1) additionally, Black et al. discloses a plurality of reverse link connon channels are offset from one another as disclosed in column 4 lines 15-25.

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**Regarding claim 6**, Black et al. discloses everything claimed, as applied above (see claim 1) additionally, Black et al. discloses in column 11 lines 10-25 (which reads on) a first and second power control/inhibit bit stream of offset from the first power control.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 10, 15-18, 21, 25, 30-34, 38, 43-45, 53, 59, 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Black et al (U.S. Patent Number 6,208,873).

**Regarding claims 10,25,38,53**, Black et al. discloses everything claimed, as applied above (see claim 1) however, Black et al. fails to disclose a third and fourth power control/inhibit bit stream the corresponds to the third and fourth reverse link common channel.

Especially in view of the fact that Black et al. does provide for the uses of a first and second power control/inhibit bit stream disclosed in column 11 lines 10-25.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify Posner et al. by specifically providing for a third and fourth power control/inhibit bit stream the corresponds to the third and fourth reverse link common channel as taught by Black et al. for the purpose of ensuring an acceptable service quality.

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***Regarding claim 15,16,17,31,32,44,45,59,60,*** Black et al. discloses everything claimed, as applied above (see claim 1) additionally, Black et al. discloses common power control on a forward link carrier wave of a Walsh channel in a cdma system a common power control signal and a quick paging signal (which reads on column 7 lines 15-30).

***Regarding claims 18,21,30,33,34,43,*** Black et al. discloses everything claimed, as applied above (see claim 1) additionally, Black et al. discloses a base station supports communications with a CDMA system comprising, an antenna (830), a interface, a spreader/despreader (832), a coder/decoder (848), processing circuitry (846), memory (94), a base station controller as exhibited in figure 8.

***Allowable Subject Matter***

3. Claims 11-14,26-29,39-42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheila B. Smith whose telephone number is (703)305-0104. The examiner can normally be reached on Monday-Thursday 6:00 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on 703-305-4778. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9314 for regular communications and (703)308-6296 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-9700.

S. Smith 

June 15, 2003

  
**TEMICA M. DAVIS**  
**PATENT EXAMINER**